STATE OF MICHIGAN

COURT OF CLAIMS

MICHIGAN HOUSE OF REPRESENTATIVES,

Plaintiff,

v

Case No. 25-000096-MZ

JOCELYN BENSON, in her official capacity as Michigan Secretary of State, and MICHIGAN DEPARTMENT OF STATE,

Hon. Sima G. Patel

Defendants.
_____ /

OPINION AND ORDER DENYING PLAINTIFF'S 6/5/25 MOTION AND DEFENDANTS' 6/26/25 CROSS-MOTION FOR SUMMARY DISPOSITION

The Legislature has authority under Michigan law to issue subpoenas to effectuate its legislative responsibilities, including the power to issue subpoenas to other branches of government. This power is necessarily broad, but it is not without limit: to balance competing concerns regarding separation of powers, legislative subpoenas must be related to and in the furtherance of a legitimate legislative purpose and be no broader than necessary to support the legislative objective.

On June 5, 2025, the Michigan House of Representatives (House) filed suit against Secretary of State Jocelyn Benson and the Michigan Department of State (MDOS) (collectively defendants) seeking a declaratory judgment that defendants' objections to subpoenas issued by the House Oversight Committee (OC) for the entirety of the election training materials in the

Department's eLearning Portal were invalid.[1] The House immediately moved for summary disposition pursuant to MCR 2.116(C)(10) and with their response, defendants sought dismissal in their favor. At this point in the proceedings, there remain questions of fact regarding whether the subpoenas were issued for a valid legislative purpose, precluding summary disposition. Accordingly, the Court DENIES both the House's motion and defendants' cross-motion for summary disposition.

I

The legislative branch of the government has authority to conduct investigations to assist in the performance of its legislative duties. In order to effectively investigate, the Legislature must have a way to collect information. The authority for the House to issue subpoenas comes from statute and is memorialized in the House Rules. MCL 4.101 states:

> Committees and commissions of or appointed by the legislature may by resolution of the legislature be authorized to administer oaths, subpoena witnesses and/or to examine the books and records of any persons, partnerships or corporations involved in a matter properly before any of such committees or commissions. Any witness who neglects or refuses to obey a subpoena of any of such committees or commissions, or who refuses to be sworn or testify, or who fails on demand to produce any papers, books or documents touching any matter under investigation, or any witness or attorney who is guilty of any contempt while in attendance at any hearing before any of such committees or commissions, may be punished as for contempt of the legislature.

MCL 4.541 further states:

> Notwithstanding any other provision of law to the contrary, any standing or select committee of the senate or the house of representatives, and any joint select committee of the senate and house of representatives, shall be authorized to

[1] The House also sought an injunction for defendants to maintain a copy of the sought-after materials in their current form. This Court entered an order preserving the status quo on June 11, 2025.

> subpoena and have produced before any such committee, or inspect the records and files of any state department, board, institution or agency; and it shall be the duty of any state department, board, institution or agency to produce before the committee as required by the subpoena, or permit the members of any such committee to inspect its records and files. Such records and files shall be subpoenaed, examined or used only in connection with the jurisdiction and purposes for which the committee was created.

The Legislature promulgated House Rule 36, which states:

> (1) Except as provided by MCL 4.541 or subsection (2), the right of a special or standing committee to subpoena shall be granted by resolution of the House in accordance with Mason's Manual of Legislative Procedure - 2020 edition. The vote on adoption of a subpoena power resolution shall be by record roll call vote. The votes of a majority of the Members elected and serving shall be required for adoption. The right to subpoena shall not be granted to subcommittees.
>
> (2) The House [OC] for the One Hundred Third Legislature is granted the full scope of power as authorized by MCL 4.101 and MCL 4.541 to administer oaths, issue subpoenas, and examine books and records of any person, partnership, corporation, governmental entity, or political subdivision.

In November 2024, the rising chair of the House Election Integrity Committee (EIC) began efforts to investigate Michigan's election system. Representative Rachelle Smit first informally requested "electronic copies of all training materials offered or otherwise provided to election clerks." The next month, Representative Smit served a request for information under the Freedom of Information Act (FOIA) for 12 categories of information, including "[a]ll training materials made available to clerks relating to the management, running, administering, and/or supervising of elections" and "relating to any aspect of elections found in the" MDOS's eLearning Portal. Defendants provided existing records that they deemed to be non-exempt under the FOIA, but provided no information from the eLearning Portal.

Once installed as the chair of the EIC, Representative Smit submitted a new request for the 12 categories of information, as well as login credentials for the eLearning Portal. Defendants

denied that portion of Representative Smit's request, claiming release of the information in the Portal would degrade the security and integrity of elections in Michigan.

In March 2025, Representative Smit sought the assistance of the OC to secure the information requested from defendants. OC Chair Jay DeBoyer first attempted to secure information, including login credentials for the eLearning Portal, through a letter. Defendants reiterated their concerns about the security and integrity of elections if the training materials were released.

Ultimately, the OC issued subpoenas to Secretary Benson and the MDOS for:

> The current full, complete, and unredacted training materials used to train Michigan clerks and their staffs on Michigan elections, including but not limited to all of the materials found in the [MDOS's] eLearning Center.
>
> This includes all materials listed on the attached list of documents that the [MDOS] withheld from disclosure to the [House].

These subpoenas were issued following the OC meeting on April 15, 2025. The minutes from that meeting provide the only evidence before the Court of the OC's reason and intention in issuing the subpoenas:

> 1. The information being sought is necessary to the work of the Committee because:
>
> a. Election Integrity is of the utmost importance to the functioning of our republican form of government in the state of Michigan, and the [MDOS] has been unacceptably difficult in ensuring transparency regarding how that department is training local clerks to administer our state's elections. The [OC] exercises a vitally important role in providing legislative oversight over this function of the Executive branch of government in our state. The [House] has the right to know how [Secretary Benson] is instructing local election officials to conduct the elections within this state. Secretary Benson's refusal to provide the [OC] with basic training materials provided to local election officials indicates that the training provided does not comply with the Michigan Election Law. If the training did

> comply with the Michigan Election Law, Secretary Benson would not be withholding the documents from the [OC].

Defendants objected to the subpoenas in a May 7, 2025 letter. Most importantly, defendants contended that "[a] legislative subpoena is only valid to the extent it serves a *legislative purpose* of the committee that issues the subpoena." (Emphasis added.) Citing OAG 1975-1976, No 4998, p 421 (April 22, 1976); *Trump v Mazars USA, LLP*, 591 US 848, 862-863; 140 S Ct 2019; 207 L Ed 2d 951 (2020); *Barenblatt v United States*, 360 US 109, 111-112; 79 S Ct 1081; 3 L Ed 2d 1115 (1959); and *Watkins v United States*, 354 US 178, 187; 77 S Ct 1173; 1 L Ed 2d 1273 (1957), defendants contended that a legislative investigation must be in furtherance of a legislative purpose and the information sought by a subpoena must be pertinent to the inquiry made. The Legislature lacks the power to compel an executive agency to disclose information for irrelevant purposes, and must respect the independence of the other branch. OAG 1981-1982, No. 5994, p 394 (September 30, 1981). Defendants asserted that the subpoenas cited no legislative purpose and did not "explain the committee's purpose in requesting the training materials or how the requested materials are pertinent to the [OC's] purpose."

Defendants further objected that while the statutes and House Rule 36 permitted House standing committees to issue subpoenas, they did not permit one committee to issue subpoenas on behalf of another. Here, the OC issued the subpoenas on behalf of the EIC. Defendants objected that the subpoenas were overbroad in scope and burdensome because they sought the entirety of the information in the eLearning Portal, comprising 22 gigabytes of information that would require a burdensome amount of time to review and redact before release.

II

The House filed suit seeking a declaratory judgment that defendants' objections to the subpoenas were invalid. The same day, the House moved for summary disposition in its favor under MCR 2.116(C)(10). In their response, defendants included a cross-motion for summary disposition in their favor.

A (C)(10) motion tests the factual sufficiency of a claim. The Court must view all the evidence presented by the parties in the light most favorable to the nonmoving party to determine if the moving party is entitled to judgment as a matter of law. *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 160; 943 NW2d 665 (2019). The Court "may not weigh evidence, make determinations of credibility, or otherwise decide questions of fact." *Sabbagh v Hamilton Psychological Servs, PLC*, 329 Mich App 324, 346; 941 NW2d 685 (2019). Rather, the Court must accept the evidence presented as it appears on its face.

III

The Court has reviewed the materials presented and concludes that there remains a question of fact whether the subpoenas were issued for a valid legislative purpose, precluding summary disposition in either side's favor.

A

In *Trump*, 591 US at 853, the United States Supreme Court considered Congress's authority to issue subpoenas to executive branch officials, there the President. Three congressional committees sought the President's personal financial information in subpoenas setting "forth broad legislative objectives." *Id*. at 854. The Supreme Court noted that "Congress has no enumerated

constitutional power to conduct investigations or issue subpoenas, but we have held that each House has power to secure needed information in order to legislate." *Id*. at 862 (cleaned up). The Supreme Court described that the power of inquiry and the concomitant power to enforce it are essential auxiliaries to the legislative function. *Id*.

> Without information, Congress would be shooting in the dark, unable to legislate wisely or effectively. The congressional power to obtain information is broad and indispensable. It encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys of defects in our social, economic or political system for the purpose of enabling the Congress to remedy them. [*Id*. (cleaned up).]

The Supreme Court described that because the power to investigate "is justified solely as an adjunct to the legislative process, it is subject to several limitations." *Id*. (cleaned up).

> Most importantly, a congressional subpoena is valid only if it is related to, and in furtherance of, *a legitimate task of the Congress*. The subpoena *must serve a valid legislative purpose*, it must concern *a subject on which legislation could be had*.
>
> Furthermore, Congress may not issue a subpoena for the purpose of law enforcement, because those powers are assigned under our Constitution to the Executive and the Judiciary. Thus Congress may not use subpoenas to try someone before a committee for any crime or wrongdoing. Congress has no general power to inquire into private affairs and compel disclosures, and there is no congressional power to expose for the sake of exposure. Investigations conducted solely for the personal aggrandizement of the investigators or to punish those investigated are indefensible. [*Id*. at 862-863 (cleaned up) (emphasis added).]

Attorneys for Congress argued for more freedom in its subpoena powers. The Supreme Court rejected that position.

> Without limits on its subpoena powers, Congress could exert an imperious [control] over the Executive Branch and aggrandize itself at the President's expense, just as the Framers feared. And a limitless subpoena power would transform the established practice of the political branches. Instead of negotiating over information requests, Congress could simply walk away from the bargaining table and compel compliance in court. [*Id*. at 867 (cleaned up).]

When congressional subpoena power was used to seek the personal information of the President, the Supreme Court determined that "[a] balanced approach is necessary, one that takes a considerable impression from the practice of the government, and resists the pressure inherent within each of the separate Branches to exceed the outer limits of its power." *Id*. at 869 (cleaned up). The Supreme Court held that a subpoena seeking the President's personal information was required to be "related to, and in furtherance of, a legitimate task of the Congress," and mandated reviewing courts to perform "a careful analysis that takes adequate account of the separation of powers principles at stake, including both the significant legislative interests of Congress and the unique position of the President." *Id*. (cleaned up). Relevant to this balancing is the principle that "constitutional confrontation between the two branches should be avoided whenever possible," and alternative methods of securing the requested information should be sought out. *Id*. at 869-870 (cleaned up). Further, lawmaking, unlike judicial criminal proceedings, is not "undermined without full disclosure of all the facts." *Id*. at 870 (cleaned up). Legislation can still be drafted even if not "every scrap of potentially relevant evidence" is available to the legislative body. *Id*. (cleaned up).

The Supreme Court further held, "to narrow the scope of possible conflict between the branches, courts should insist on a subpoena no broader than reasonably necessary to support Congress's legislative objective. The specificity of the subpoena's request serves as an important safeguard against unnecessary intrusion into the operation of the Office of the President." *Id*. (cleaned up). The Supreme Court continued, "courts should be attentive to the nature of the evidence offered by Congress to establish that a subpoena advances a valid legislative purpose. The more detailed and substantial the evidence of Congress's legislative purpose, the better." *Id*. And "burdens imposed by a congressional subpoena should be carefully scrutinized, for they stem

from a rival political branch that has an ongoing relationship with the President and incentives to use subpoenas for institutional advantage." *Id*. at 871.

B

The Montana Supreme Court extended this analysis to a state legislative investigation into information collected by the chief administrator for the Montana state court system in *McLaughlin v Montana State Legislature*, 405 Mont 1, 10-13; 493 P3d 980 (2021). In doing so, the court reasoned that although the legislative power to obtain information is broad and indispensable, separation-of-powers principles dictate that the power not be unlimited. *Id*. at 8.

> Congress may only investigate into those areas in which it may potentially legislate or appropriate, it cannot inquire into matters which are within the exclusive province of one of the other branches of the Government. Lacking the judicial power given to the Judiciary, it cannot inquire into matters that are exclusively the concern of the Judiciary. Neither can it supplant the Executive in what exclusively belongs to the Executive. [*Id*., quoting *Barenblatt*, 360 US at 111-112.]

In evaluating the validity of the legislative subpoena, the Montana Supreme Court held that the court must "look to the purposes the Legislature identifies." *Id*. at 21. The subpoena in *McLaughlin*, like the subpoena in this case, identified no purpose, legislative or otherwise. *Id*. The Montana Legislature did not identify its purpose until its filings before the trial court. The Montana Supreme Court distilled those purposes into three categories: "(1) the Judicial Branch's records retention policy and practices; (2) the Court Administrator's use of state e-mail to communicate with judges and the Montana Judges Association about matters pending before the Legislature; and (3) the statements and conduct of members of the judiciary." *Id*.

The Court rejected the validity of the Legislature's purposes stated after filing suit because the Legislature failed to identify its purposes in the subpoenas issued. In relation to each, the

Legislature either directly or by inference indicated that it believed judicial branch employees had violated different laws. The Court held that "[a]ddressing alleged violations of existing law is an enforcement matter entrusted to the executive, not to the legislative, branch of government; it is therefore not a valid legislative purpose." *Id*. at 24, 34. Further, the Legislature had not adequately identified how the evidence sought would support its investigation or could support a valid legislative inquiry. *Id*. at 28, 36, 42. And in attempting to investigate statements made by judges during a poll used by the Montana Judges Association, the Court held that the Legislature was attempting to improperly invade the functions of the judicial branch. See *id*. at 39-41.

Ultimately, the Court held:

> The asserted legislative purpose—both expressed in the April 14 subpoena and in the Legislature's filings with the Court—is to determine whether individuals violated the law. Enforcement of the law is not a "legitimate task" of the legislative function. More pointedly, the conduct the Legislature alleges does not, as a matter of law, constitute the purported legal violations it uses to support its asserted legislative purposes. And there is, of course, no legislative power to expose for the sake of exposure. [*Id*. at 46 (cleaned up).]

C

The only purpose cited for the issuance of the subpoenas in this case was given in the minutes of the April 14, 2025 OC meeting. Those minutes state, in part:

> The [House] has the right to know how [Secretary Benson] is instructing local election officials to conduct the elections within this state. Secretary Benson's refusal to provide the [OC] with basic training materials provided to local election officials indicates that the training provided does not comply with the Michigan Election Law. If the training did comply with the Michigan Election Law, Secretary Benson would not be withholding the documents from the [OC].

This language accuses Secretary Benson of promulgating and maintaining election training materials that do not comport with election laws. It suggests that the House intended to punish

defendants for legal violations. But law enforcement is not within the purview of the legislative branch.

The House has also stated in letters and pleadings that it desires to review all the election training materials to determine whether amendment of election laws is in order. This stands in stark contrast to the reasons cited at the OC meeting which led to the issuance of the subpoenas to defendants. This creates a question of fact regarding the Legislature's purpose, precluding summary disposition in either side's favor on the issue of whether the Legislature had a proper legislative purpose to issue the subpoenas to defendants.

IV

Defendants further objected that while the statutes and House Rule 36 permitted House standing committees to issue subpoenas, they did not permit one committee to issue subpoenas on behalf of another. Here, the OC issued the subpoenas on behalf of the EIC. House Rule 36(2), however, seems to grant the House OC authority to issue the subpoenas in question. Further, the identity of those individuals who could have access to the subpoenaed materials is an issue that can be resolved through compromise and negotiation connected with this suit. Accordingly, the Court declines to grant summary disposition in either party's favor in this regard.

V

Defendants objected that the subpoenas were overbroad in scope and burdensome because they sought the entirety of the information in the eLearning Portal, comprising 22 gigabytes of information that would require a burdensome amount of time to review and redact before release. The Court is inclined to agree with defendants. If the Legislature's purpose in requesting materials

from defendants is to amend Michigan Election Laws, the EIC should be able to narrow down the materials it requires to achieve that goal. The House has not identified any issues or shortcomings in the law that it seeks to address. By issuing subpoenas for the entirety of the training material provided by defendants to local election officials, the House is in danger of invading defendants' supervisory control in the election arena. "The secretary of state shall be the chief election officer of the state and shall have supervisory control over local election officials in the performance of their duties under the provisions of this act." MCL 168.21. The Secretary of State is tasked with "issu[ing] instructions and promulgat[ing] rules . . . for the conduct of elections and registrations in accordance with the laws of this state." MCL 168.31. Although the Legislature is tasked with enacting laws governing elections, that power cannot be exercised so broadly as to eclipse the authority of the Secretary of State. This issue, too, can be resolved through compromise and negotiation connected to this suit. Accordingly, the Court also declines to grant summary disposition in either party's favor regarding this objection to the subpoenas.

IT IS ORDERED:

1. Plaintiff's motion and defendants' cross-motion for summary disposition are DENIED.

2. The parties are DIRECTED to appear via Zoom for a scheduling conference on Thursday, November 13, 2025, at 4:00 p.m. A Zoom link will be provided separately by the Court.

3. This is not a final order.

Date: November 3, 2025

Sima G. Patel
Judge, Court of Claims